

**Conference on Effectively Restoring Ecosystems
22-24 August 2000, St. Louis, Missouri**

BACKGROUND

Session: Breakout 2C

Topic: Project Cooperation Agreements (PCA)

Moderator and recorder: Ellen Cummings, CECW-PD

Panelists: Scott Murphy, CECC-G and Ellen Cummings, CECW-PD

Objective: Promote an increased understanding of PCA process, requirements, range of flexibility, and reasons for limitations. Address attendee issues.

Description: Attendees were asked to provide a question or issue that they wanted to have discussed and these were listed on a flip chart. Mr. Murphy and Ms. Cummings gave brief presentations summarizing the PCA process and common issues and then addressed the questions. Discussion was lively and the session ran over its allotted time.

HIGHLIGHTS

Ms. Cummings discussed the Headquarters PCA review focus, the documentation requirements, common problems, touched on the requirements for design agreements, PCA amendments, Memoranda of Agreement and other documents, and covered review and approval process. Early coordination with Kim Smith and Jim Scott both CECW-PC was stressed as was the need to have complete review packages. Failure to include Legal Certification, a complete checklist with proper signatures, and lack of environmental compliance documentation are some of the frequent problems identified with submitted packages. The following web site provides PCA policy and checklists and links to the model agreements; <http://www.usace.army.mil/inet/functions/cw/cecwa/branches/review/index.htm> Using the models on the Office of the Chief Counsel web page is important.

Mr. Murphy reviewed legal history of PCAs and the use of models. He emphasized that deviations need to be fully explained and justified. The legal basis for the indemnification article and the limitation of the use of the optional article regarding future state appropriations were discussed. The hazardous substances article was also reviewed.

Many of the questions related to PCAs and process for CAP projects. There was strong interest in model PCAs for section 111 projects and model language for the inclusion of recreation in environmental CAP projects. There was discussion about the length of the PCAs, especially relative to the less expensive projects. Specific suggestions were encouraged but the difficulty of identifying any item for omission was noted. There was discussion about executing PCAs early in P&S and how the need for water quality certification is an issue in these cases. Provision of alternative language regarding this item was strongly desired. It was noted that execution of the PCA must follow project approval and therefore can not occur until near the end of the combined phase for small projects. One option mentioned was that there was no reason they couldn't do a concise "feasibility" report if the sponsor really wanted to get credit for work-in-kind during design. The status of the navigation models was discussed and everyone was urged to consult with Kim Smith and Jim Scott when starting to work on a

navigation PCA. The issue of multiple sponsors was raised and it was noted that this can be accommodated but that it does make things more difficult. The length of time required by headquarters to review deviations was discussed. The ways the field can help expedite the process were covered as well as things that might cause delays.